

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ERNEST MORRIS,	:	
	:	Civil Action
v.	:	
	:	No. 08-5717
COMMONWEALTH OF	:	
PENNSYLVANIA.	:	

ORDER

And now, this 26th day of August, 2009, after review of the Report and Recommendations of Chief Magistrate Judge Rueter (Doc. No. 8) and upon independent consideration of the record, it is hereby **ORDERED**:

1. The Magistrate Judge's Report and Recommendation is APPROVED in part, MODIFIED in part, and ADOPTED in part.
2. Petitioner's Petition for Writ of Habeas Corpus (Doc. No. 1) is DENIED and DISMISSED. Petitioner's double jeopardy claim is dismissed with prejudice. Petitioner's remaining claims are dismissed without prejudice for failure to exhaust.
3. Because there is no probable cause to issue a certificate of appealability, no certificate of appealability shall issue.
4. The Clerk shall close this case.

BY THE COURT:

/s Michael M. Baylson

Michael M. Baylson, U.S.D.J.